IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1802 OF 2005

Mubarak Babalal Shaikh ...Petitioner

Versus

Shabbir Babalal Mulani & Ors ...Respondents

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Mr. T.S. Ingale, counsel for Petitioner

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CORAM: B. H. MARLAPALLE, J.

DATED: 27TH APRIL, 2005

P. C.:-

1. Heard Mr. Ingale, the learned counsel for the petitioner who was impleaded as defendant No.3 in R.C.S. No. 122 of 2004 filed before the learned C.J.J.D. at Islampur. In the said suit, an application for temporary injunction at Exh.8 was filed by the plaintiff seeking temporary injunction against the defendant No.3 from interfering with the plaintiff's possession. This application was allowed by the learned Joint C.J.J.D. vide his order dated 14.6.2004 and the defendant No.3 was restrained from interfering with the possession over the suit property till the decision of the suit. The petitioner, therefore, challenged the said order in Misc. Appeal No. 12 of 2004 and the learned Additional District Judge at Islampur has been

pleased to allow the said appeal vide his judgment and order dated 2.8.2004. The order passed below Exh.8 by the trial court has been set aside and consequently the application for temporary injunction is dismissed. However, for the reasons stated in the last paragraph of the said order, the lower appellate Court has directed the parties to maintain status quo till the disposal of the suit. This order of status quo is challenged in this writ petition.

2. The lower appellate Court stated that the dismissal of application at Exh.8 could not entitle the appellant i.e. present petitioner to take up any building construction activities in the suit plot nor was he entitled to alienate any part of the property purchased by him when the suit was pending. This interim direction granted by the lower appellate Court while allowing the appeal filed by the present petitioner does not call for any interference as it does not suffer from any error apparent on the face of the record.

3. Therefore, the petition is rejected summarily.

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